

## STAFFORD COUNTY SCHOOL BOARD

### Agenda Consideration

**TOPIC:** Amendments to Regulation 5-38      **ITEM NO.:** 4H  
Medical Leaves

**PREPARED BY:** H. Charles Woodruff, II      **MEETING:** December 14, 2004  
Assistant Superintendent      **ACTION DATE:** Information Only  
of Financial Services

Lucy N. Maddy  
Director of Payroll and Benefits

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#### **ACTION REQUESTED BY THE SUPERINTENDENT:**

That the School Board receive for information the revision made to Regulation 5-38, Medical Leaves.

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#### **KEY POINTS:**

Regulation 5-38, Medical Leaves has been revised to change the due date for the "Principal's Monthly Report of Employee Absences" from the 15<sup>th</sup> of the month to the 12<sup>th</sup> of the month.

- The Payroll Department receives thirty-four (34) "Principal's Monthly Report of Employee Absences" each month and is responsible for verifying each leave report and accompanying substitute forms. In addition, the Payroll Department processes approximately 1,900 other payroll changes monthly. Due to these time consuming processes and the growth of the division, it is becoming increasingly difficult for the Payroll Department to complete all tasks in the time required to process the payroll.
- The appropriate Principal/Director/Supervisor and leave entry personnel will receive written notification at least one month in advance of the change in the due date. The current cut-off for leave entry is the 10<sup>th</sup> of the month and will not change. Leave entry personnel will have two (2) days to finalize their report and send to the Payroll Department.
- The recommended change appears on page 2 of Regulation 5-38.

**SCHOOL BOARD GOAL 6:** Introduce programs to enhance employee status, within the school division and the community at large, so that employees are aware of their value to school and community.

**FUNDING SOURCE:** N/A

**AUTHORIZATION REFERENCE:** N/A

**PERSONNEL****Medical Leaves**

This regulation shall apply to the three types of medical leave allowed within the school system: sick leave, extended medical leave, and family and medical leave.

**I. Sick Leave****A. Participation**

Participation of employees in the sick leave plan of the board shall be mandatory. Eligible employees may elect to participate in the sick leave bank as described in R 5-38.1 or the voluntary leave donation program outlined in R5-38.2.

**B. Accrual of Sick Leave****1. In General**

- (a) Earned sick leave, if not used, will be permitted to accumulate to an unlimited number of days.
- (b) Employees will have sick leave advanced on an annual basis at the commencement of the contracted term of employment. However, an employee must work at least one day of his/her current contract year in order to earn and use sick leave for that current contract year.

**2. Full-Time Employees**

- (a) Full-time employees will earn one sick leave day per month.

**3. Part-Time Employees**

- (a) All personnel (except special categories\*) who work a minimum of 50%, but less than 100% of the hours required of the full-time position, shall be entitled to 50% of the sick leave benefits of the position. All sick leave benefits shall be rounded to the nearest half day.

**(b) Examples**

A person working a part-time 10 month contract for a minimum of 3.75 hours per day but less than 7.5 hours per day would earn 5 full days or 10 half days of sick leave.

A person working a part-time 12 month contract for a minimum of 2.5 days (18.75 hours per week and less than 37.5 hours) per week would earn 6 full days or 12 half days of sick leave.

A cafeteria worker working a 10 month contract for a minimum of 18.75 hours per week but less than 37.5 hours per week would earn 5 full days or 10 half days of sick leave.

(c) \*Special Categories

Bus drivers	0-8 years:	6 days
	9+ years:	10 days

C. Utilization of Sick Leave

1. An employee shall not anticipate sick leave days for the current school year prior to reporting for duty. If an employee is unable, because of illness, to begin work when contracted to do so, such employee must use his/her accumulated sick leave not to exceed such balances credited as of June 30 of the immediately preceding school year. If additional days are needed due to an eligible illness-related absence as permitted under this regulation, the employee may apply for extended medical leave and/or family and medical leave.

2. Should an employee exhaust all sick leave, any balance of personal leave or vacation leave will be used automatically before an employee is placed on unpaid status pursuant to any part of this regulation for an eligible reason.

3. An employee covered under the sick leave plan who has exhausted accumulated sick leave, personal leave, and annual leave shall not be compensated for any days absent from work, unless pursuant to the optional sick leave bank or voluntary leave donation program. An employee, at his/her discretion, shall be allowed to use accrued, documented compensatory time for eligible illness-related absences under this sick leave plan.

4. An employee is required to sign the "Principal's Monthly Report of Employee Absences" upon return to employment from each absence. The principal or supervisor is required to have this report to the School Board Office on the ~~15<sup>th</sup>~~ 12<sup>th</sup> of each month. This report shall cover the period of the current month. The Finance Department will check each leave request and report to the principal or supervisor any discrepancies. Sick leave will be reported in multiples of half-days. All quarter days reported will be recorded as half-days, and three-quarter days will be recorded as whole days.

Exception: Sick leave for full-time bus drivers who work as support assistants, paraprofessionals and/or mid-day drivers may be reported as follows:

a.m. run	¼ day
mid-day assignment	½ day
p.m. run	¼ day

5. Sick leave shall be allowed for the following purposes:

- (a). Personal illness including disability and illness caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom.
- (b). Illness or death in the employee's family requiring the attendance of the employee. Family shall include the following: natural parent, adoptive parent, foster parent, stepfather, stepmother, wife, husband, natural child, adoptive child, foster child, stepchild, brother, sister, father-in-law, mother-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, or other relatives who are permanent residents of the same household.
- (c). Work-related injuries limited to seven (7) days per injury.
- (d). Personal and family medical and dental appointments.
- (e). Use by the mother/father to attend an ill child.
- (f). Adoption of a minor child (under 18 years of age) by an employee upon obtaining physical custody of said minor child. Sick leave may also be used prior to obtaining physical custody, if necessary, in order to fulfill the legal requirements for adoption. Advance notice, in writing, of the intended adoption is required so that appropriate personnel actions can be taken. Notification of physical custody must be made on the date of receiving such custody to the Executive Director of Human Resources. The employee is expected to return to work within a reasonable period of time (approximately six weeks) unless the leave is taken pursuant to the Family and Medical Leave Act in which case twelve (12) workweeks may be utilized.
- (g). Illness or disability resulting from pregnancy. Sick leave shall not be permitted due to an employee's pregnancy as, except in isolated situations, pregnancy is not an illness or an employment disability.

6. The immediate supervisor shall have the authority to approve requests for sick leave of five (5) days or less even if the days must be taken on an unpaid basis.

7. Maternity leave. Notification of projected maternity related sick leave must be provided to the immediate supervisor no less than thirty (30) days prior to the anticipated due date. The immediate supervisor is responsible for ensuring that the employee completes all necessary paperwork for maternity leave. An employee who uses sick leave or pregnancy-related complications and postpartum recovery must return to work as soon as physically recovered from the delivery. The employee's physician shall determine when the employee is physically able to return to work and shall indicate that date on the Physician Certification Form

required for approval of maternity leave . This provision shall apply only to those employees ineligible for family and medical leave.

8. Sick leave must be taken for the purpose for which it is granted pursuant to this regulation. It cannot be interchanged with or substituted for another type of leave.

**D. Transfer of Accumulated Sick Leave**

An employee may only transfer accumulated sick leave from another school division in Virginia or another state agency in Virginia up to a maximum of two hundred (200) days.

**E. Termination of Sick Leave**

All accumulated sick leave shall terminate, without payment except as stated in School Board Policy and Regulation 5-39, upon expiration of employment except as defined below:

1. An employee may transfer accumulated sick leave to another school system in the State of Virginia if the system to which the transfer is being made signifies its willingness to accept such a transfer.

2. An employee who leaves his/her position to enter the armed services does not forfeit accumulated leave unless he/she fails to return to his/her position within one (1) year's time of discharge from the armed services.

3. An employee who remains away from any school system for three (3) consecutive years shall forfeit all accumulated sick leave.

**II. Extended Medical Leave**

**A. In General**

1. An employee suffering from an illness in excess of five (5) consecutive Days must complete and have his/her physician sign the "Sick Leave Certification Form." This form must be returned to the principal or supervisor and submitted with the "Principal's Monthly Report of Employee Absences" to the Payroll Department at the School Board Office before any payment of sick leave is made beyond the five (5) days allowed. In the event that an employee shall be absent in excess of five (5) days due to illness or death in the employee's family, the employee shall have approval of the Superintendent or designee. The School Board reserves the right to deny any sick leave for which there is insufficient documentation.

2. An employee may not remain away from his/her position longer than ninety (90) consecutive work days without approval of the School Board. Failure to obtain School Board approval for extended medical leave will result in the forfeiture of said employee's position.

3. Employees granted extended medical leave may use accrued sick leave benefits. An employee on extended medical leave shall not be entitled to any fringe benefits after his/her sick leave is depleted. However, an employee on extended medical leave status who has depleted his/her accrued sick leave may keep his/her health and group life insurance by paying the total cost of premiums a month in advance during the approved medical leave period.

4. Bus drivers who end a school year on extended medical leave are not considered employees of the school division for the following school year until they pass a physical as prescribed by the Virginia Department of Education and set forth in Stafford County Regulation R 5-53.2 and are issued a new contract. Such physical must be passed before a contract is issued for the following school year.

5. Extended medical leave and family and medical leave shall run concurrently for employees who qualify for both types of leave.

### **III. Family and Medical Leave**

#### **A. Definitions**

The following definitions shall apply for purposes of this regulation:

1. The term "intermittent leave" means leave taken in separate periods of time due to a single illness or injury, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks.

2. The term "parent" means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter. This term includes parent-in-law.

3. The term "reduced leave schedule" means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

4. The term "serious health condition" means an illness, injury, impairment, or physical/mental condition that meets any one of the following:

(a) Involves inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care.

(b) Continuing treatment by a health care provider that consists of a period of incapacity for more than three consecutive days, that also involves treatment two or more times by a health care provider, or treatment at least once by a health care provider which results in a regimen of continuing treatment.

(c) Periods of incapacity related to pregnancy and childbirth, including prenatal care.

(d) Chronic conditions – episodic incapacity (e.g., diabetes, epilepsy), permanent/long-term conditions (e.g., Alzheimer's, terminal cancer), or multiple treatments (e.g., chemotherapy, dialysis).

Voluntary or cosmetic treatments which are not medically necessary are not serious health conditions unless inpatient hospital care is required.

5. The term "son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability. "Incapable of self-care" means that the individual requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living.

**B. Eligibility**

An employee who has worked for the School Board (i) for at least twelve (12) months and (ii) for at least 1,250 hours during the previous twelve (12) months is eligible to apply for family and medical leave.

**C. Leave**

1. Except as hereinafter provided, an eligible employee shall be entitled to a total of twelve (12) workweeks (sixty [60] work days) of unpaid leave per twelve (12) month period for one or more of the following reasons:

- (a) The birth of the employee's son or daughter, and to care for the newborn child;
- (b) The placement with the employee of a son or daughter for adoption or foster care, and to care for the newly placed child;
- (c) To care for the employee's spouse, son, daughter, parent-in-law, or parent with a serious health condition; and,
- (d) Because of a serious health condition that makes the employee unable to perform one or more of the essential functions of his or her job.

2. The entitlement to leave for a birth or placement of a son or daughter shall expire 12 months after such birth or placement.

3. A husband and wife who are employed by the School Board may only take a combined total of 12 weeks of leave during a twelve (12) month period for the birth or placement of a child or to care for a parent (including parents-in-law) with a serious health condition.

**D. Calculation of Available Leave**

1. All leave requests meeting the requirements for Family and Medical Leave as outlined in subsection III.C. above will be counted towards the 12-week entitlement period.

2. Family and Medical Leave balances are determined on a rolling 12-month period, measured backward from the date Family and Medical

Leave is to be used. Consequently, each time an employee takes Family and Medical Leave, the remaining leave entitlement would be any balance of the twelve (12) weeks which has not been used during the immediately preceding twelve (12) months. For example, if an employee uses four weeks beginning February 1<sup>st</sup>, four weeks beginning June 1<sup>st</sup>, and four weeks beginning December 1<sup>st</sup>, the employee would not be entitled to any additional leave until the following February 1<sup>st</sup>.

3. An eligible employee with a less than full-time position is entitled to 12 workweeks of Family and Medical Leave prorated based upon the employee's full-time equivalent (FTE) status. For example, an employee who worked full-time in the preceding year and thus qualified for Family and Medical Leave for the current year, but who is currently working a part-time schedule of 18.75 hours per week is entitled to twelve (12) weeks of Family and Medical Leave at the rate of 18.75 hours per week.

**E. Options for Taking Family and Medical Leave**

1. Twelve (12) workweeks of Family and Medical Leave may be taken all at once, intermittently, or on a reduced-leave schedule as approved. Arrangements for intermittent leave must be coordinated with the employee's supervisor.

Leave for the birth or placement of a child shall not be taken by an employee intermittently or on a reduced leave schedule without the written authorization of the Division Superintendent.

2. Leave for the serious health condition of an employee or an employee's spouse, parent, parent-in-law, or son/daughter may be taken intermittently or on a reduced leave schedule when medically necessary. If such leave is foreseeable based on planned medical treatment, the Division Superintendent may require the employee to transfer temporarily to an available alternative position for which the employee is qualified and that has equivalent pay and benefits and, in the Division Superintendent's opinion, better accommodates the recurring periods of leave than the regular employment position of the employee.

3. Only the amount of leave actually taken is counted towards the 12 workweeks of leave. However, employees may not take leave in less than half day increments.

**F. Substitution of Paid Leave**

1. Family and Medical Leave should be taken as paid sick leave as appropriate. Use of accrued, documented compensatory time is at the discretion of the employee. An employee on Family and Medical Leave must exhaust all sick leave, vacation leave, and personal leave before being placed on unpaid leave status.

2. Time taken for Family and Medical Leave will be counted concurrently toward both Family and Medical Leave and the appropriate paid or unpaid leave. Family and Medical Leave shall run concurrently with leave taken by an employee for an injury compensable by Worker's



Compensation as long as said injury meets the definition of a serious health condition under the Family and Medical Leave Act.

**G. Foreseeable Leave**

1. In any case in which the necessity for leave is foreseeable based on an expected birth or placement, or planned medical treatment for a serious health condition of the employee or of a parent, parent-in-law, son, or daughter, the employee shall request such leave not less than thirty (30) days before the date leave is to begin, except that if the date of the birth or placement or medical treatment requires leave to begin in less than thirty (30) days, the employee shall provide as much notice as is practicable.
2. In any case in which the necessity for leave for the serious health condition of an employee or of an employee's spouse, parent or son/daughter is foreseeable, based on planned medical treatment, the employee shall make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the School Division, subject to the approval of the employee's health care provider.
3. Requests for leave shall be made on forms provided by the Division Superintendent.

**H. Unforeseeable Leave**

1. When the approximate timing of the need for leave is not foreseeable, an employee should give notice to his/her supervisor of the need for Family and Medical Leave as soon as practicable under the facts and circumstances of the particular case. It is expected that an employee will give notice to his/her supervisor within no more than one or two working days of learning of the need for leave, except in extraordinary circumstances where such notice is not feasible. In the case of a medical emergency requiring leave because of an employee's own serious health condition or to care for a family member with a serious health condition, written advance notice pursuant to the school division's internal rules and procedures may not be required when Family and Medical Leave is involved.

**I. Certification and Other Opinions**

1. An employee requesting leave on account of a serious health condition must submit a medical certification from his/her health care provider on the form provided by the Division Superintendent.
2. In any case in which the Division Superintendent has reason to doubt the validity of the certification for leave, he/she may require, at the School Board's expense, that the employee obtain a second opinion of a provider designated or approved by the Division Superintendent concerning any information in the certification.
3. If the second opinion differs from the original certification, the Division Superintendent may require, at the School Board's

expense, that the employee obtain a third opinion of a provider jointly approved by the employee and the Division Superintendent. The third opinion shall be final and binding.

4. The Division Superintendent may require an employee to obtain subsequent certifications on a reasonable basis.

5. The failure of an employee to provide the required medical certification will terminate the employee's right to leave under the Family and Medical Leave Act and nullify any leave already taken by the employee.

**J. Employment and Benefits Protection**

1. An employee who takes leave under this regulation shall, upon return from said leave, be restored to the position he or she left or to an equivalent position.

2. An employee taking leave under this regulation shall not lose any benefits accrued prior to taking leave, but no such employee shall accrue seniority or benefits while on unpaid leave.

3. An employee who takes leave for his own serious health condition shall provide the Division Superintendent with a certification from the health care provider, on the prescribed form, that the employee is able to resume work.

4. The Division Superintendent may require employees on leave under this regulation to report periodically on the status and intention of the employee to return to work.

5. The School Board may recover any premiums that it paid for maintaining benefit coverages for an employee during the period of unpaid leave hereunder if the employee does not return to work after the expiration of the leave, except for health benefit premiums when the employee does not return to work because of the continuation, recurrence, or onset of a serious health condition that entitles the employee to leave under paragraph (C)(1)(c) or (d) above, or other circumstances beyond the employee's control. The Division's Superintendent may require the employee to provide a certification from a health care provider if the employee does not return to work because of reasons specified in paragraph (C)(1)(c) or (d). If the employee fails to provide the requested certification within thirty (30) days of the request, the employee will be obligated to repay all health benefit premiums paid by the School Board.

**K. Additional Rules for Instructional Employees**

In addition to the requirements set forth above, an eligible employee employed principally in an instructional capacity shall comply with the requirements specified in this section.

1. An employee who requests leave for a serious health condition that is foreseeable based on planned medical treatment and that would last more than 20 percent of the working days in the following 12-month period must elect either:

- (a) to take leave for periods of a particular duration, not to exceed the duration of the planned medical treatment; or
- (b) to transfer temporarily to an alternative position, if available and offered by the Division Superintendent, for which the employee is qualified.

If the employee begins leave more than five (5) weeks prior to the end of the semester, the Division Superintendent may require the employee to continue taking leave until the end of the semester if:

- (a) the leave is of at least three (3) weeks duration; and
- (b) the return to work would occur during the 3 week period before the end of the semester.

2. If the employee begins leave for other than his/her own serious health condition during the period that commences five (5) weeks prior to the end of the semester, the Division Superintendent may require the employee to continue taking leave until the end of the semester if:

- (a) the leave is of greater than two (2) weeks duration; and
- (b) the return to work would occur during the 2 week period before the end of the semester.

If an employee begins leave for other than his/her own serious health condition during the period that commences three (3) weeks prior to the end of the semester and the duration of leave is greater than five (5) working days, the Division Superintendent may require the employee to continue to take leave until the end of the semester.

#### H. Effective Date

The implementation of Section III this regulation shall be retroactive to August 5, 1993.

**Predecessor R5-47:**

**Adopted by School Board: September 14, 1993**

**Integrated with R5-38 and Eliminated as R5-47: May 27, 2003**

**R5-38:**

**Approved by Division Superintendent: September 11, 1979**

**Amended by Division Superintendent: August 11, 1981**

**Amended by Division Superintendent: December 30, 1981**

**Amended by Division Superintendent: March 9, 1982**

**Amended by Division Superintendent: June 27, 1989**

**Amended by Division Superintendent: June 9, 1992**

**Amended by Division Superintendent: October 19, 1995**

**Amended by Division Superintendent: August 26, 1997**

**Amended by Division Superintendent: May 27, 2003**